THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos.

14500, 14389 & 16980 OF 2005

06-09-2005

Between:

D.Karunakar & Others.

... PETITIONERS

And

Government of Andhra Pradesh, rep. by its Principal Secretary,

R&B and Transport Department, Hyderabad & Others.

...RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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14500, 14389 & 16980 OF 2005

COMMON ORDER : (Per Hon'ble Sri Bilal Nazki, ACJ)

These three writ petitions have been filed in public interest—one by an Association of Lawyers and other two by individuals. These petitions were filed in the background of a strike of employees of Andhra Pradesh State Road Transport Corporation (hereinafter referred to as 'APSRTC') in connection with certain demands made by them. During the course of hearing, the Court, on 06.7.2005, passed an order in the following terms;

> *"Without going into the merits of the controversies raised before us, we are passing the following order with the consent of the learned counsel for the parties.*

1. *that the State Government shall take steps to implement the decisions already agreed upon by the Government during the negotiations between the Cabinet Sub-Committee and the Joint Action Committee.*

2. *that the negotiations shall start immediately between the Joint Action Committee and the Cabinet Sub-Committee and the negotiations shall be completed and finalized within a period of three weeks.*

3. *the State Government or the Corporation shall not take any action against any employee of the Corporation whether permanent or casual for having participated in the strike.*

4. *that the State Government shall ensure that all buses belonging to the Corporation shall remain operational and do not have to stop working because of shortage of fuel.*

5. *that the strike shall be called off by the Joint Action Committee immediately."*

The Court had taken note of the charter of demands made by

the Joint Action Committee and had also taken note that during the negotiations before the strike, certain demands had already been met by the Government. After three weeks, when the cases came up again, the Court was informed that the parties could not arrive at a negotiated settlement, therefore the cases be heard on merits.

In writ petition No.14500 of 2005, prayer has been made that the Government should invoke the provisions of Andhra Pradesh Essential Services Maintenance Act, 1971 (for short 'ESMA') and the Government should also be ordered to take all necessary steps for ensuring smooth public transport system.

In writ petition No.14389 of 2005, it is prayed that respondent No.3 i.e. Joint Action Committee should be restrained from going on strike with effect from 04.07.2005 and such strike should be declared to be illegal, arbitrary and unjustified.

In writ petition No.16980 of 2005, it is prayed that the proposed indefinite strike call given by 4th respondent—Joint Action Committee pursuant to failure of negotiations with the Government, be declared as illegal, arbitrary and contrary to the provisions of ESMA.

As on today, there is no strike and the strike was called off on 06.07.2005. The order of 06.07.2005 was passed with the consent of the parties. While passing the said order, the Court did not go into the question of legality or otherwise of the strike resorted to by the Joint Action Committee. As on today, there is no strike and therefore, it would not be necessary for this Court to go into the question whether the Joint Action Committee has a right to go on strike or not.

Counter-affidavits have been filed by the Joint Action Committee as well by the State and we have heard learned counsel for the parties at length.

It appears that out of several demands, some demands have not been met by the State Government and therefore, the Joint Action Committee was not satisfied with the negotiations. Since at present the Joint Action Committee is not on strike, we propose not to deal

with the issue relating to their right to strike and consequences thereof. At the same time, it may not be out of place to mention that the rights and interests of the members of the service will have to yield to the interests of public at large and therefore, the Government is bound, in case of a strike, to take all necessary measures that are necessary to protect the rights of the people. We would like to emphasize that in case of strike by members of the services which are essential, the Government should always be prepared to meet the consequential situation. In that regard, we would like to give certain directions while disposing of these writ petitions—

1. The Government should have a task force, which should automatically start working in case of a strike by members of an essential service. The people should not be left to the mercy of the persons, who man such an essential service and people should not be forced to go to the Courts to obtain directions, but the Government should itself make arrangements to minimize the inconvenience caused to the people due to strike by members of such essential service.

2. In case of transport, we feel that the State Government should prepare a list of at least licensed Drivers and Conductors, who are not in the service of APSRTC and who are prepared to work at short notice on daily wage basis. This list must be available with the task force so that if there is a strike in future, such Drivers and Conductors are asked to do the job on daily wage basis.

3. The State Government should prepare a plan that in case of strike by the employees of APSRTC, some Drivers, who are in the employment of State Government and other Government undertakings and Police service, can

be deputed to drive the vehicles belonging to APSRTC, and

4. The State Government should immediately, on strike, do all that is necessary in accordance with law to see that the public transport system does not suffer and minimum inconvenience is caused to the general public.

With these observations, the writ petitions are disposed of. No order as to costs.

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(BILAL NAZKI, ACJ)

06-09-2005

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(G.CHANDRAIAH, J)

ajr